REMARKS/ARGUMENTS

At the outset, Applicants thank Examiner McAvoy for her helpful explanations of the rejections in the Office Action dated July 27, 2005, in her consideration of Applicants' application. It appears as if the sole source of the foundation of each of the rejections under 35 USC §112 and §103(a), as well as the objection under 37 CFR 1.75(c) is the apparent confusion over the term "Monomer" as well as modifications thereof. Applicants apologize for Examiner McAvoy for the confusion and wish to offer the following remarks and attachments hereto for clarification, as well as demonstrating the level of understanding in the art of fatty acid chemistry, especially those related to the application corresponding hereto. Accordingly, Claims 1-24 are still pending.

The rejections of Claims 1-17 under 35 USC §112, second paragraph, over the term "Monomer" as well as terms corresponding to derivatives thereof is traversed below in view of the attachments provided herewith.

According to MPEP §2171, there are two separate requirements for Claims under 35 USC §112, second paragraph. The first is subjective and requires that the claims must set forth the subject matter that applicants regard as their invention. The second is the objective and requires that the claims must particularly point out and distinctly define the metes and bounds of the subject matter that will be protected by the patent grant.

The present rejection relies on the objective second prong of 35 USC §112, second paragraph (see Office Action at page 2, paragraph 3). The objective test standard of the second prong is whether the scope of the claim is clear to a hypothetical person possessing the ordinary level of skill in the pertinent art (see MPEP §2171).

According to MPEP §2173.01, the focus of the objective prong related to 35 USC §112, second paragraph, should be on clarity and precision. The essential inquiry pertaining

to this requirement is whether the claims set out and circumscribe a particular subject matter with a reasonable degree of particularity and distinctness (See MPEP §2173.01). Definiteness of claims language must be analyzed, not in a vacuum, but in light of:

A) The content of the particular application disclosure;

B) The teachings of the prior art; and

C) The claim interpretation that would be given by one possessing the ordinary level of skill in the pertinent art at the time the invention was made (See MPEP §2173.01.

Regarding part A) of the analysis, the Office indicates that Applicants have spent almost two pages defining "Monomer" (e.g. pages 4-5 of the application), especially as related to Tall Oil Fatty Acid (TOFA), including an example that Monomer is so different that it requires a separate CAS number (e.g. 68955-98-6). Accordingly, the Office indicates that the content of this particular application disclosure defines clearly the meaning of "Monomer", especially as related to its differences from TOFA. Therefore, it appears as if part A) regarding the definiteness test is satisfied by Applicants.

Yet, it appears as if the Office is confused regarding the differences between TOFA and Monomer despite such long descriptive language within the content of this particular application disclosure. Applicants sincerely apologize for such confusion and direct the Office's attention to the prior art such as United States Patent 6,875,842 (copy attached hereto). USP 6,875,842 discusses "Monomer" at great length in a manner that is similar to the discussion in the present application. During the prosecution of the application corresponding to USP 6,875,842, the term "Monomer" and its derivatives, were accepted as being definite and as satisfying 35 USC §112, second paragraph, by the Office. Within the present application, as well as USP 6,875,842, CAS number 68955-98-6 is given as an example of "Monomer". Applicants attach hereto a copy of the description for CAS number

68955-98-6 to aid in clarifying any misunderstanding of the term "Monomer". This CAS number is completely different from that of TOFA's (see CAS number 61790-12-3 and United States Patent 6,489,272 which demonstrates that it is well known that TOFA is completely distinct from Monomer). Accordingly, the teachings of the prior art, including the different CAS numbers corresponding to TOFA and Monomer, respectively, clearly demonstrate that the term "Monomer" as used and defined in present application and claims has clarity and distinctiveness, thus satisfying part B) of the above-mentioned definiteness standard within the MPEP. In addition, it should be noted that the Office has indicated that the term "Monomer" is well known in the prior art (see page 2, paragraph 4, of the Office Action). Thus, it appears as if part B) of the definiteness criteria is satisfied by Applicants.

The reasons for the different CAS numbers for Monomer and TOFA, respectively, are provided in the attached prior art publications to demonstrate not only the teachings of the prior art as required by part B), but also to demonstrate the claim interpretation that would be given by one possessing the ordinary level of skill in the pertinent art at the time the invention was made as required by part C) of the MPEP's definiteness standard. These references, attached hereto, are provided in the Federal Register by the U.S. Environmental Protection Agency (U.S. EPA) regarding the "Proposed Correction to the Chemical Nomenclature for Monomer Acid and Derivatives for TSCA Inventory Purposes" published October 31, 2000, as well as the corresponding publication in the Federal Register by the U.S. EPA regarding the effective "Correction to Chemical Nomenclature for Monomer Acid and Derivatives for TSCA Inventory Purposes", published June 27, 2001. Both of these publications clearly demonstrate the teachings of the prior art as required by part B) of the definiteness test under 35 USC §112, second paragraph, are clear and distinct regarding the term "Monomer", especially as distinct from TOFA. Further, both of these publications demonstrate that that the differences between "Monomer" and TOFA are so great that a new

class of chemical nomenclature (as well as CAS numbers) must be created so as to appreciate such differences. Finally, both of these references demonstrate under part C) of the definiteness test for 35 USC §112, second paragraph, that one possessing the ordinary level of skill in the pertinent art at the time the invention was made would clearly interpret the term "Monomer" and its derivatives as used in the present claims as being clear and distinct, especially as related to TOFA. Thus, it appears as if Part C) of the definiteness criteria is satisfied by Applicants.

In light of all of the above, Applicants again apologize for causing any confusion related to the term "Monomer" and its derivative. Further, Applicants respectfully submit that the above-mentioned remarks and attachments hereto provide the Office with enough information to demonstrate that A) the content of the particular application disclosure; B)the teachings of the prior art; and C) the claim interpretation that would be given by one possessing the ordinary level of skill in the pertinent art at the time the invention was made (as required to satisfy 35 USC §112, second paragraph according to MPEP §2173.01) that the term "Monomer" and its derivative are definite. Accordingly, Applicants have appeared to satisfy Parts A), B) and C) of the definiteness criteria set out by MPEP§2173.01 for 35 USC §112, second paragraph, and withdrawal of this ground of invention is respectfully requested.

The rejection of Claims 1-17 under 35 USC §103(a) over USP 5,543,110 (US'110) is traversed below.

The Office indicates that US'110, at best, discloses a method of deodorizing tall oil fatty acids (TOFA), tall oil rosin, and esters thereof (see page 3, paragraph 4 of the Office Action). The Office indicates that US'110 describes the ester derivatives are made by reacting tall oil fatty acid and tall oil rosin with polyhydroxy alcohols (see page 3, paragraph 4 of the Office Action). Finally, the Office bases the grounds for rejection on the apparent

confusion surrounding the term "Monomer" used in the present claims (see page 3, paragraph 4 of the Office Action).

In light of all of the above remarks related to the definiteness of the term "Monomer" and its derivative, especially as related to TOFA, Applicants contend that it should now be clear that TOFA is not Monomer due to distinct differences in chemistry as appreciated by the United States government (e.g. US EPA as discussed above). The fact that the US EPA appreciates the clear differences there between TOFA and Monomer, as well as the fact that there exists separate CAS numbers for TOFA and Monomer (i.e. 61790-12-3 and 68955-98-6, respectively), clearly demonstrates that TOFA is not Monomer, Monomer is not TOFA, and ester derivatives of TOFA are not ester derivatives of Monomer.

In light of the above, US'110 can not possibly disclose or suggest the claimed invention because US'110 relates to TOFA and ester derivatives thereof. Accordingly, withdrawal of this ground of rejection is respectfully requested.

The objection of Claims 15 and 17 is traversed below. The above remarks serve as a foundation for the understanding of the meaning of Monomer. Accordingly, Monomer may be one source of cyclic and branched fatty acids and equivalents thereof. Claims 12 and 16 define the scope of the cyclic and branched fatty acids and equivalents thereof in the claimed invention, while Claims 15 and 17 are defining Monomer as the source of such fatty acids and equivalents thereof. Thus no antecedent basis is required in Claims 12 and 16 because Monomer is not the sole source of such chemistries being claimed; rather Monomer is one possible source of such chemistries claimed therein. Claims 15 and 17 claim that at least Monomer may be the source of these chemistries. Accordingly, withdrawal of this ground of objection is respectfully requested.

It should be noted that Applicants timely traversed the Restriction Requirement on the grounds that it is the Office's, not the Applicants', burden to support the Office's conclusions

regarding Restriction. Applicant's traversed the Requirement on the basis that the Office failed to meet its burden because the Office failed to provide evidence to support its claims in the Requirement. Applicant's can not point out the specifics of the errors in reasoning because no specific reasons were provided by the Office other than conclusions lacking support for such conclusions. Applicants timely traversed pointing out such deficiencies. Thus, Applicants respectfully request the Office to note that Applicants did, in fact, traverse the Requirement.

Applicants respectfully submit that the present application is now in condition for allowance. Favorable reconsideration is respectfully requested. Should anything further be required to place this application in condition for allowance, the Examiner is requested to contact the below-signed by telephone.

Please charge the amount of **$450.00** required for the request for extension of time to our Deposit Account No. 09-0525. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 09-0525. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time.

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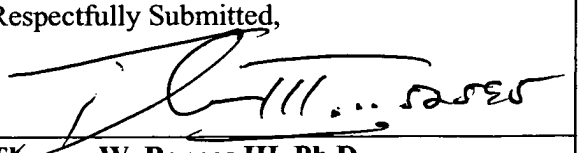
(513) 248-6445 (fax)</td><td colspan="2">Respectfully Submitted,
  </td></tr>
<tr><td colspan="2">Thomas W. Barnes III, Ph.D.</td></tr>
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